

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

RONALD WUEBBELING,)	No. ED103501
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	Honorable John R. Essner
JILL CLARK, f/k/a JILL WUEBBELING,)	
)	
Appellant.)	FILED: August 9, 2016

Jill Clark, formerly known as Jill Wuebbeling ("Mother") appeals from the trial court's September 8, 2015 amended judgment and the trial court's July 24, 2015 judgment. The September 8, 2015 amended judgment granted the guardian ad litem's motion to amend and ordered Mother and Ronald Wuebbeling ("Father") to pay certain amounts for counseling services as well as outstanding guardian ad litem ("GAL") fees. The July 24, 2015 judgment, *inter alia*, sustained Father's motion for contempt and motion for family access and awarded compensatory time to him for Mother's denial of his custody for 24 days, and ordered Mother and the children to participate in counseling at Mother's expense; and sustained Father's motion to abate child support, abating Father's obligation to pay child support for the months of November 2014 through July 2015 and ordering Mother to reimburse Father for nine months of the child support.

DISMISSED IN PART, AFFIRMED IN PART, REVERSED IN PART.

Division One Holds: A finding of contempt is interlocutory only and is not final for purposes of appeal until it is actually enforced. Jones v. Jones, 296 S.W.3d 526, 529 (Mo. App. W.D. 2009). The trial court sustained Father's motion for contempt and awarded compensatory time on a gradual basis as well as reimbursement for costs, but Mother does not assert or demonstrate in the record that this order has been "enforced." Beshers v. Beshers, 433 S.W.3d 498, 509 (Mo. App. S.D. 2014). Mother's first point is dismissed.

The trial court did not abuse its discretion in sustaining Father's motion for family access and motion to abate child support as the evidence on the record clearly supports the trial court's decision. Mother gave no repercussions to her children for refusing to go on visitations and failed to encourage a positive relationship and communication with Father, which only built up a toxic atmosphere for them. We defer to the trial court's determination finding the children's testimony not credible, and thus, find that the trial court did not err in finding that Mother failed to comply with Father's visitation without good cause. Mother's second and third points are denied.

The guardian ad litem's reasonable fees for his services may be awarded in the court's discretion. Section 452.423.5. The GAL was only necessary for the motions here based upon

the insistence of Mother that the children testify to bolster her position that they refused to visit Father without Mother's influence. The trial court ultimately found the children's testimony was not credible. The trial court did not abuse its discretion in ordering Mother to pay the GAL a sum of \$1,813. Mother's fourth point is denied.

Finally, because the trial court set aside its August 8, 2014 order for counseling, the trial court had no authority to order the parties to pay for the counseling services in its September 8, 2015 amended judgment. The trial court's amended judgment ordering the parties to pay for counseling services is reversed. Mother's fifth point is granted.

Opinion by: Roy L. Richter, J.

Robert G. Dowd, Jr., P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: Jonathan D. Marks, Murry A. Marks

Attorney for Respondent: Ronald Wuebbeling

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
